

REMARKS

Claims

Claims 1-9 and 12-13 were identified as allowed. The reason recited was that there is no stabilizer and/or sequestering agent as reagent. Applicants submit that this is not in accord with applicants' understanding of these claims. Since these claims did not exclude a stabilizer and/or sequestering agent as reagent, applicants were under the impression that the addition thereof is permissible. This is especially so since dependent claims recited these reagents as possible. The amended claims now clarify these claims by expressly reciting that there is no stabilizer, and providing that optionally a sequestering agent may be added. New claims 16-25 have been added excluding both stabilizers and sequestering agents.

The Rejection Under 35 USC § 103

Claims 10 and 14, reciting a stabilizer as a reagent, were rejected over US '214. These claims are cancelled without prejudice or disclaimer. The current claims recite that there is no stabilizer used as a reagent, which is the reason the previously allowed claims were noted to be allowed. Thus, the rejection over this reference is moot.

The Obviousness-Type Double Patenting Rejections

Claim 11 was rejected over claims 1-2 of US '383.

Claims 1 and 2 are directed to a "stabilized" aqueous solution (see line 1 of claim 1). Claim 11 of the present application depends from claim 1, which explicitly excludes a stabilizer as a reagent. Since claims 1 and 2 do not teach or suggest a solution without a stabilizer, there is no obviousness-type double patenting.

Claims 10, and 14 were rejected over claims 1, 8 and 14 of US '974.

Claims 10 and 14 are cancelled without prejudice or disclaimer.

Claim 15 was rejected over claims 1, 2 and 8 of US '974.

Claim 8 of '974 recites the use of a stabilizing agent. Since claim 15 depends from claim 1, which excludes a stabilizing agent, there is no obviousness-type double patenting over claim 8 for at least this reason.

The current claims recite a whole set of features of the claimed process in sections (a) and (b) of claim 1 that are not taught or suggested by claims 1 and 2, and as a matter of fact by any claim, of US '974. Thus, there is no obviousness-type double patenting over these claims.

Additional Possible Prior Art Issues

The priority documents of each of US 5,912,383 and US 5,919,974 published more than a year prior to the priority date of the present application. In the abundance of caution applicants make the following comments to clarify, on the record, that these publications also do not represent impediments to patentability.

US '383 is directed to "stabilized" solutions. See abstract, column 2, lines 21-22, and the claims therein, for example. Since a stabilizer is excluded from the present claims, there is no anticipation or obviousness over this reference.

US '974 while not explicitly requiring a stabilizer, does strongly suggest the use thereof on column 2, lines 45-53, and actually used a stabilizer in all examples. Additionally, nowhere does this reference teach or suggest the various process parameters recited in sections (a) and (b) of claim 1. For example, this reference does not teach or suggest the addition of DAMEMA to the reactor during the process, while in the claimed process the reactor comprises 5-60% of the amount by weight of the DAMEA necessary for the reaction and then the start of the introduction of the remaining DAMEA begins when 20-80% of the amount by weight of the quaternizing agent (II) necessary for the reaction has been added. Thus, there is no anticipation or obviousness over this reference.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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